

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ISAN CONTANT,)	
)	
)	
vs.)	Civil Action No. 11-204J
)	Judge Kim R. Gibson/
CAMERON LINDSAY, Warden,)	Magistrate Judge Maureen P. Kelly
Moshannon Valley Correctional Center,)	
Respondent.)	

MEMORANDUM ORDER

Isan Contant (“Petitioner”) is incarcerated at Moshannon Valley Correctional Institution (“MVCC”), currently serving a criminal sentence for immigration violations. He has a projected release date of December 21, 2011. He has filed a habeas petition pursuant to 28 U.S.C. § 2241 (“Section 2241 Petition”), complaining that the Bureau of Prisons (“BOP”) has improperly calculated his sentence and denied him credit of about 45 days against his sentence to which Petitioner claims entitlement. Specifically, Petitioner claims that he was entitled to credit from November 1, 2010, the date upon which Immigration and Customs Enforcement (“ICE”) agents detained Petitioner until December 15, 2010, the date whereon he was criminally indicted in the United States District Court for the Middle District of Pennsylvania (“the Sentencing Court”). Petitioner initiated the present Section 2241 proceedings on September 9, 2011, when he filed his motion for leave to proceed *in forma pauperis* (“IFP”). ECF No. [1]. In the Section 2241 Petition, he points out that if his calculations are correct, he should actually be released from his sentence as of November 7, 2011, which is roughly 45 days prior to his actual projected release date of December 21, 2011. The Court granted the IFP motion on September 28, 2011, and in

that same order, directed that service be made on the Respondent, and required that the Respondent file an answer within 60 days of being served.

On October 11, 2011, Petitioner filed a Motion for Preliminary Injunctive Relief, ECF No. [4] and a Brief in Support. ECF No. [5]. In addition, Petitioner filed a “Motion for Response Time Reduction”, ECF No. [6], requesting that the Respondent be made to answer more quickly than 60 days because 60 days after September 28, 2011 would be roughly November 28, 2011, which would be nearly three weeks **after** his sentence should have ended according to Petitioner’s calculations.

In light of the foregoing the following order is entered,

AND NOW, this 25th day of October, 2011, Petitioner’s Motion for Response Time Reduction, ECF No. [6], is **GRANTED** to the extent that the Court’s order of September 28, 2011 is hereby modified as follows: rather than the Respondent being directed to file an answer within 60 days of being served, the Respondent is hereby directed to file an answer to the Section 2241 Petition by November 2, 2011. In addition to whatever else the Respondent wishes to raise, the Answer shall address the merits of the Section 2241 Petition, especially the significance of Galan-Paredes v. Hogsten, No. 1:CV-06-1730, 2007 WL 30329 (M.D. Pa. June 3, 2007); Reyes-Ortiz v. Schultz, Civ.No. 08-6386, 2009 WL 4510131 (D.N.J. Dec. 1, 2009); and De Paz-Salvador v. Holt, No. 3:10-CV-2668, 2011 WL 3876268 (M.D. Pa. Aug. 31, 2011) and Respondent shall provide any evidence as to when ICE made a decision that Petitioner’s case was appropriate for criminal prosecution. It is further ORDERED that Respondent shall file a response to Petitioner’s Motion for Preliminary Injunctive Relief as well by November 2, 2011.

In accordance with the Magistrate Judges Act, 28 U.S.C. 636(b)(1), and Local Rule 72,

the parties are allowed until November 1, 2011,¹ to file an appeal to the District Judge. Any appeal will not act to stay this order unless otherwise ordered by the District Judge.

s/ Maureen P. Kelly
MAUREEN P. KELLY
United States Magistrate Judge

cc: Isan Contant
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¹ Even though typically, parties are given at least 14 days in which to file an appeal, in light of the time sensitive nature of the proceedings, the Court has exercised its discretion to shorten the time period for filing an appeal. See, e.g., Moreno v. Martin, No. 08-22432-CIV, 2008 WL 4716958, at *26 (S.D.Fla., Oct. 23, 2008) (“the Court will exercise its discretion to shorten the normally applicable 10-day period to file objections to a U.S. Magistrate Judge's Report and Recommendation where exigent circumstances exist.”).